

APR 15 1993

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)	MM Docket No. <u>93-53</u>
)	
KR PARTNERS)	File No. BPH-911001MB
)	
KES COMMUNICATIONS, INC.)	File No. BPH-911003MH
)	
LORI LYNN FORBES)	File No. BPH-911004MH
)	
For a Construction Permit for a)	
New FM Station on Channel 256C in)	
Waimea, Hawaii)	

To: Honorable Joseph P. Gonzalez
Administrative Law Judge

MOTION TO ENLARGE ISSUES AGAINST LORI LYNN FORBES

KR Partners ("KR"), by counsel and pursuant to 47 C.F.R. Section 1.229(b)(1), hereby requests the Presiding Judge to enlarge the issues against Lori Lynn Forbes ("Forbes") to determine whether she will comply with 47 C.F.R. Sections 73.315(a) and (b), and in particular provide to the community of license (Waimea) a 3.16 mV/m signal. In support thereof the following is stated.

Section 73.315(a) of the Rules requires an applicant to locate its transmitter so as to provide a minimum field strength signal of 3.16 mV/m over the entire principal community of license. Section 73.315(b) provides that the transmitter location should be such that line-of-sight can be obtained from the antenna over the community of license, and in no event should there be a major obstruction in this path.

Forbes proposes to locate her transmitter and antenna approximately 0.75 kilometers southwest of Kaupulehu Crater, approximately 43 kilometers away from Waimea, side-mounting her

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antenna on the tower currently used by television station KVHF-TV, Channel 6, Kailua-Kona, Hawaii. In her application, Forbes states that "[t]here are no obstructions between the proposed transmitter site and Waimea which would cause a field strength level below 70 dBu over the community." Forbes Application, Engineering Exhibit at pp. 2, 6.

Attached hereto is the Engineering Statement of KR's Engineering Consultant, William P. Suffa, P.E. Mr. Suffa's statement includes an analysis of the terrain profile from Forbes' proposed transmitter site in the direction of Waimea, based, in part, on data manually extracted from 7.5 minute topographic maps which reveals a significant terrain obstruction between Forbes' proposed antenna location and Waimea. Standing between Forbes'

with 47 C.F.R. Section 73.313(e), which provides that in cases of unusual terrain, such as a mountain ridge which may indicate the practical limit of service, alternate calculations of contour distances are appropriate to demonstrate actual signal propagation characteristics.

These calculations demonstrate that the peak of Kaupulehu Crater will significantly reduce the strength of Forbes signal over Waimea to a level of 56 dBu, or 0.63 mV/m. This is far below the 3.16 mV/m signal strength required in Section 73.315(a). See Naguabo Broadcasting Company, 6 FCC Rcd 912 (Rev. Bd. 1991), modified on other grounds, 6 FCC Rcd 4879 (1991), 7 FCC Rcd 1696 (1992). In Naguabo, the Commission denied the application of an applicant for whom a terrain limited (Tech Note 101) calculation of signal coverage showed the strongest signal over the community as 49.9 dBu. 6 FCC Rcd 915, 916, 923 n. 24. Forbes actual coverage of Waimea is similarly deficient. Thus, a substantial and material question exists whether Forbes technical proposal complies with Section 73.315 of the Rules and whether Forbes application may be granted.

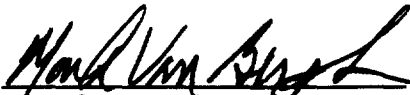
Wherefore, for the foregoing reasons, KR respectfully requests the Presiding Judge to add the following issues with respect to Forbes:

1. To determine whether Lori Lynn Forbes' proposal complies with Section 73.315(a) and (b) of the Commission's Rules and whether Forbes will provide a city grade signal to Waimea from her proposed transmitter site.

2. To determine, in light of the foregoing issue, whether
Lori Lynn Forbes is basically qualified.

Respectfully submitted,

KR PARTNERS

By: 
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Dated: April 15, 1993

REQUESTED DISCOVERY

In the event the foregoing Motion to Enlarge Issues Against Lori Lynn Forbes is granted, KR would request Forbes to produce the following documents:

1. All documents related to any calculations or other analysis performed for or on behalf of Forbes with respect to the anticipated signal coverage of Waimea from Forbes' proposed transmitter site.

2. All documents concerning any communications, oral or written, between Lori Lynn Forbes, an agent or representative of Forbes, or any other person with respect to the anticipated signal coverage of Waimea from Forbes proposed transmitter site.

3. All documents concerning any communications, oral or written, which discuss, mention, or otherwise refer to the terrain characteristics or any other matter which might affect radio signal propagation from Forbes' proposed transmitter site.

4. All documents which contain any reference to Kaupulehu Crater.

5. All documents which contain any reference to compliance with, or the provisions of Section 73.315(a) or Section 73.315(b) of the Commission's Rules.

KR Partners would also seek to pose interrogatories to Forbes requesting her to identify any and all persons who participated in the selection of or obtaining the use of her proposed transmitter site, and who performed any analysis of the radio signal coverage

which would be provided from her proposed transmitter site.

KR Partners may also seek to depose Lori Lynn Forbes, her technical consultant, John J. Davis, any other person identified as having performed or discussed radio signal coverage from Forbes' proposed site (not including Forbes' legal counsel), and any other person identified in any documents or interrogatory response as having information relevant to the added issue.

ATTACHMENT 1

ENGINEERING EXHIBIT

APPLICATION FOR CONSTRUCTION
PERMIT FOR NEW COMMERCIAL FM STATION
99.1 MHz, CHANNEL 256C
WAIMEA, HAWAII

PREPARED FOR:

MS. LORI FORBES
3053 WATERDALE DRIVE
LOVELAND, COLORADO 80538

SEPTEMBER 20, 1991

PREPARED BY:

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TABLES & FIGURES:

3.0 CLASS C OPERATING CONDITIONS

The maximum Class C operating conditions are 100 kW effective radiated power ("ERP") @ 600 meters antenna height above the average terrain ("HAAT"). This application proposes an antenna HAAT of 904 meters. Therefore, the ERP must be reduced so that the 60 dBu F(50,50) field strength contour does not extend further than 92 km. With an ERP of 38 kW and an HAAT of 904 meters, the distance to the 60 dBu field strength contour will be 91.9 km, or 92 km when rounded to the nearest kilometer.

4.0 PROPOSED TRANSMITTER SITE

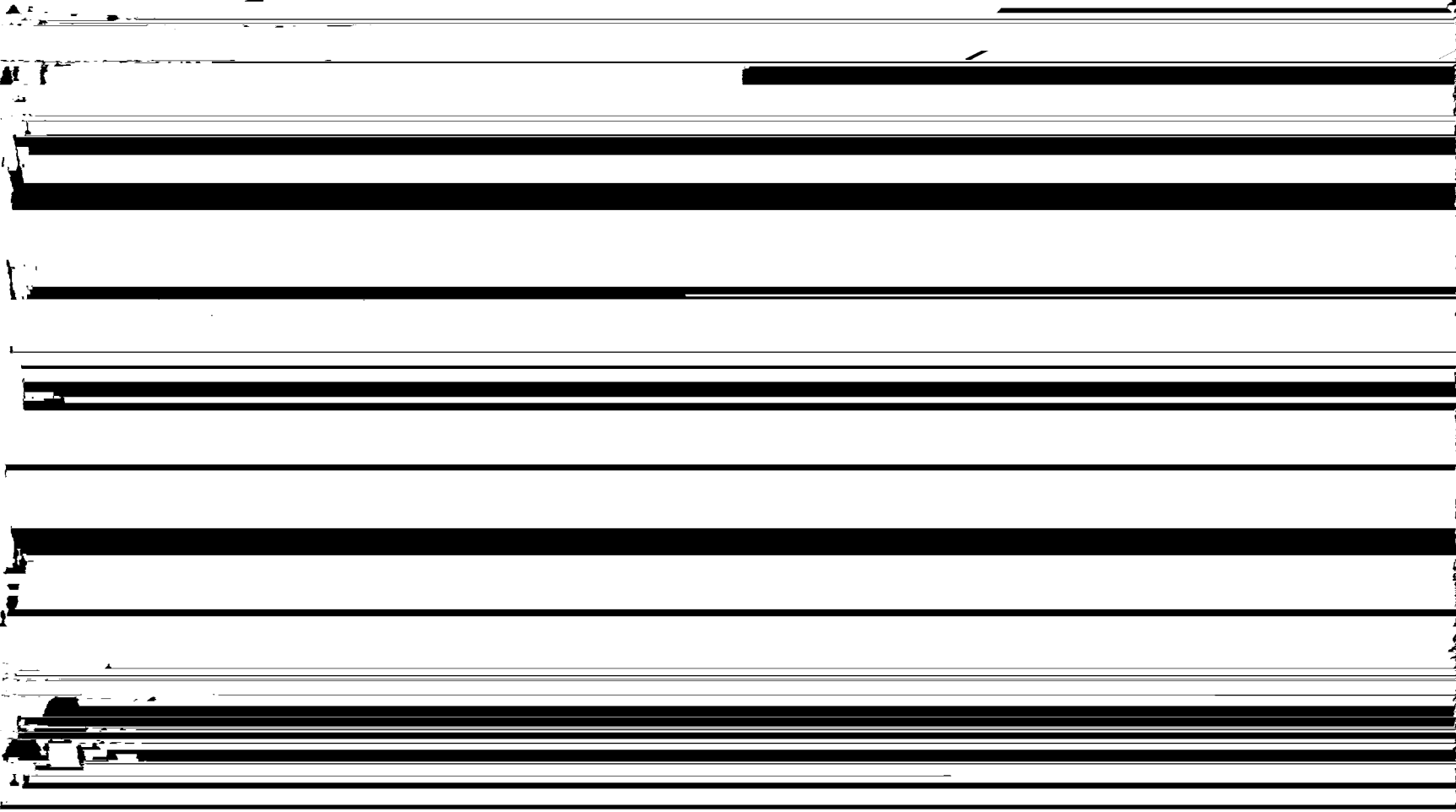
The proposed transmitter site is located 0.75 km west-southwest of Kaunulehu Crater, approximately 43 kilometers

8.3 Citygrade Coverage

The 37° radial extends through the furthestmost boundary of what is generally considered to be the community of Waimea. The distance to the 70 dBu contour along this radial is 67.1 km, while the distance to the furthestmost Waimea boundary is 42 km. Therefore, the 70 dBu contour extends 25.1 km beyond Waimea. There are no obstructions between the proposed transmitter site and Waimea which would cause a field strength level below 70 dBu over the community.

9.0 FM BLANKETING CONSIDERATIONS

The distance to the proposed 115 dBu blanketing contour is 2.43 km (1.51 miles). The area within the blanketing contour is mountainous volcanic rock and is unpopulated.



ATTACHMENT 2

Engineering Statement

Petition to Enlarge

prepared for
KR Partners
Waimea, Hawaii

This statement has been prepared on behalf of KR Partners (KR), applicant for a new FM station on channel 256C at Waimea, Hawaii in support of a Petition to Enlarge Issues against the application of Lori Forbes (Forbes) for the Waimea allotment.

Forbes has proposed to side mount her antenna on the KVHF-TV tower located near Kaupluehu Crater. At the proposed mounting height and location, the peak of Kaupluehu Crater will present a severe terrain obstacle between the transmitter and

diffraction loss is estimated to be 23 dB. This loss was added to the free space path loss of 105.2 dB to obtain a total path loss of 128.2 dB. At Waimea, the estimated field strength will be 67 dBu (2.2 mV/m), which is less than required under Section 73.315(a) and (b).

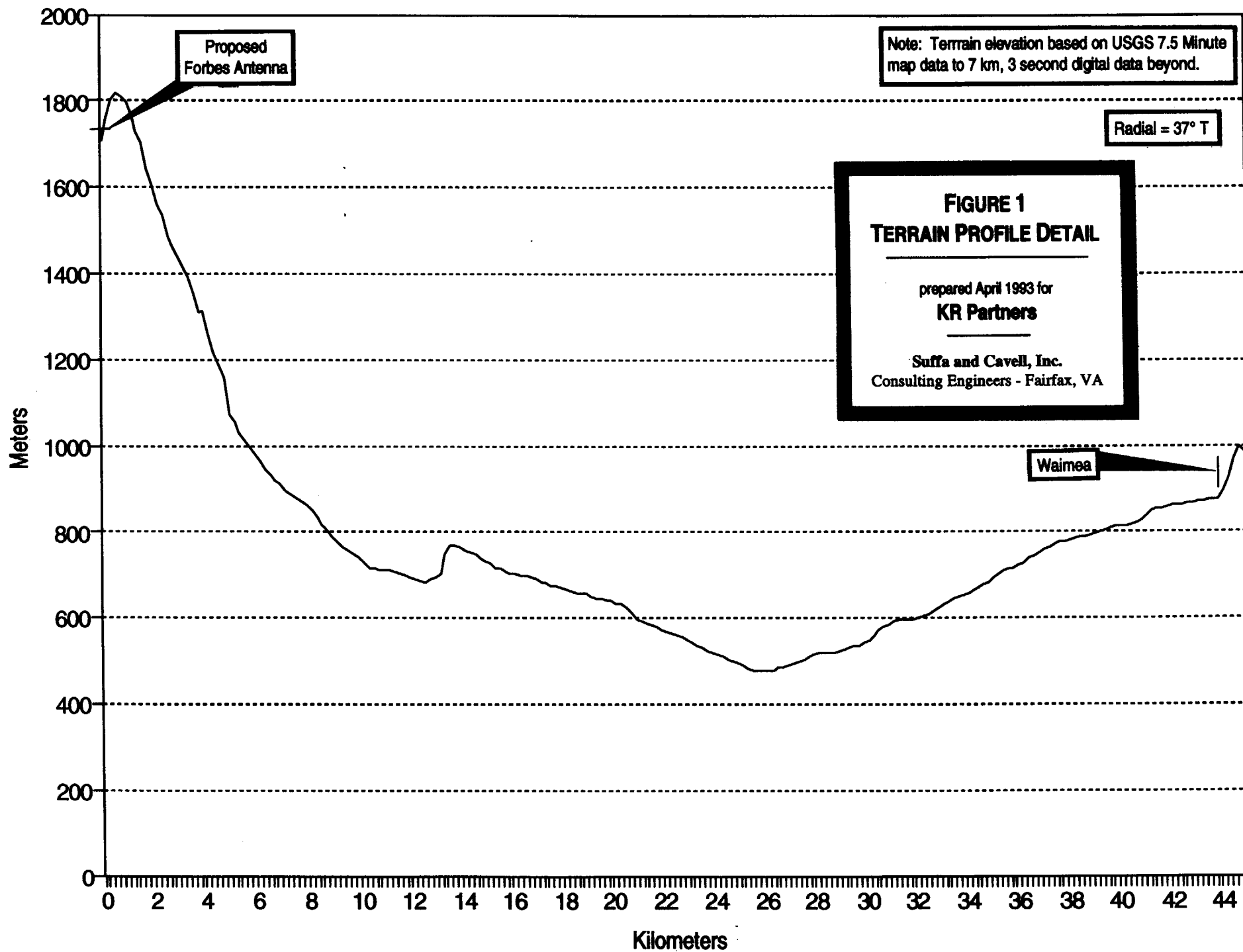
In knife-edge theory, the amount of diffracted signal is based on the amount of signal incident on the edge. In this case, the knife edge is so close to the transmitter that this factor becomes significant. For the proposed Forbes facility, the relative radiated field of 0.28 towards the peak corresponds with additional loss of 11 dB, depressing the field strength at Waimea to 56 dBu (0.63 mV/m). Additional losses will result from the peak being an imperfect "knife-edge" diffractor.

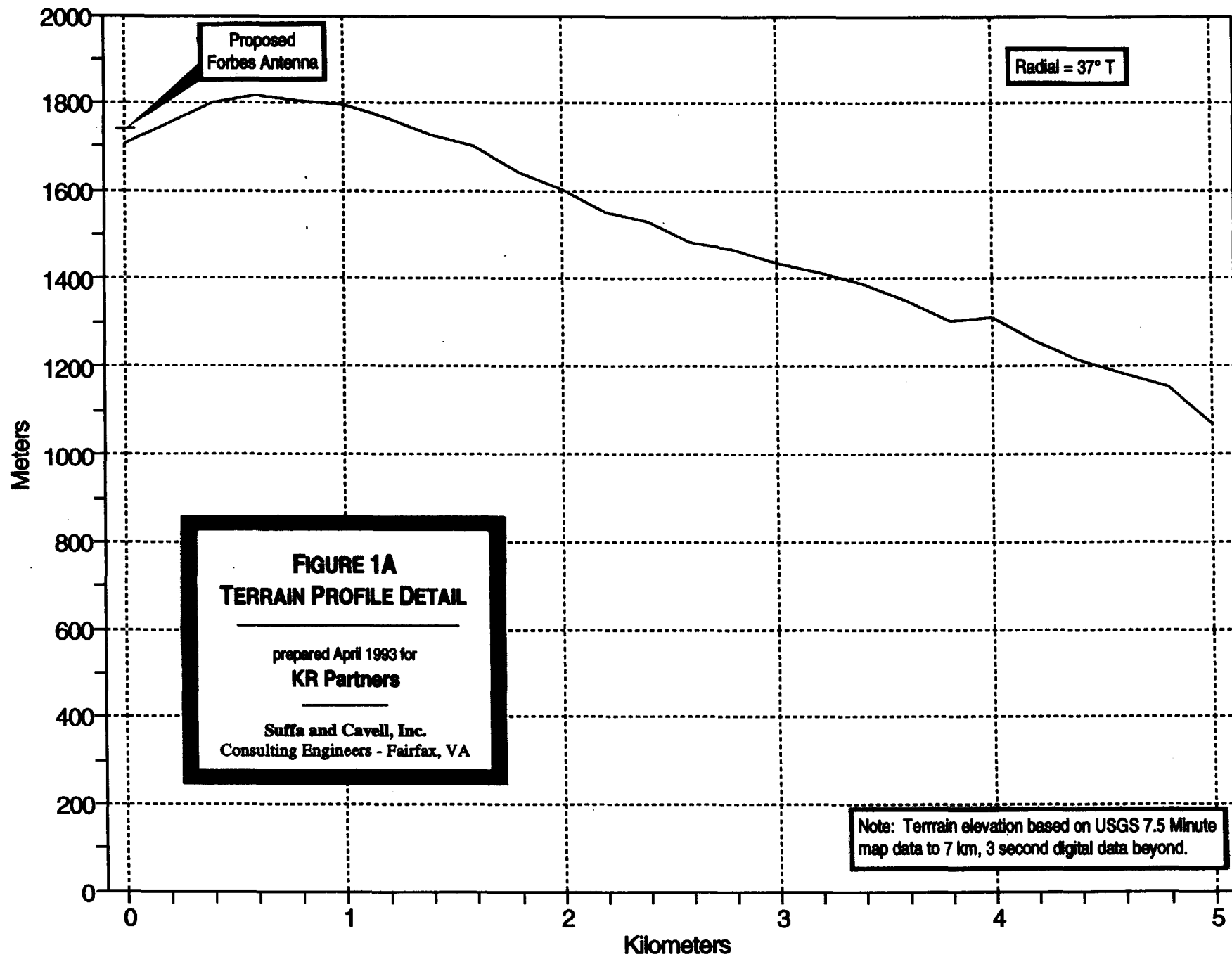
Based on the analysis contained herein, the Forbes application does not satisfy the provisions of Section 73.315(a) and (b).

A handwritten signature in black ink, appearing to read 'W. P. Suffa', with a stylized flourish at the end.

William P. Suffa, P.E.

April 14, 1993





CERTIFICATE OF SERVICE

I, Mark Van Bergh, an attorney in the law firm of Waysdorf & Van Bergh, hereby certify that I have on April 15, 1993, sent by first class U.S. mail, except as otherwise noted, copies of the foregoing "Motion to Enlarge Issues Against Lori Lynn Forbes" to the following persons:

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Mark Van Bergh

* By Hand